IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.26913 of 1998

FRIDAY, THE TWENTY NINTH DAY OF JUNE TWO THOUSAND AND SEVEN

Between:

Ch. Mallamma, W/o. late Jagathi, aged 68 years,
R/o. H.No.7-3-66, Machili Bazaar, Hanamkonda,
Warangal District, and others.

… Petitioners

And

The Kakatiya Urban Development Authority,
Rep. by its Vice-chairman & Managing Director,
Warangal, Warangal District, and another.

… Respondents

Order:

Petitioners seeks a Writ of Mandamus to direct the respondents to pay compensation to them for the land to an extent of 510 Sq. yards in S.No.1, on the main road leading from Hanamkonda to Warangal at Hanamkonda, Rayapura, which was utilized for the purpose of laying road.

2. In the affidavit filed in support of the Writ Petition, it is stated that Petitioner No.1 is the wife of one Mr. Late Jagathi and Petitioner Nos.2 to 4 are his sons. Earlier, the said Jagathi filed W.P.No.12259 of 1990 seeking direction to the respondents therein to pay compensation for the aforesaid land, which was taken possession of, for the purpose of laying road. This court by order dated 18-01-1995 allowed the same and directed the respondents to consider the case of the petitioners for payment of compensation. Consequent thereto, the Special Officer, Kakatiya Urban Development Authority, Warangal, the second respondent herein, issued the impugned proceedings dated 19-08-1997, in Rc.No.C1/1697/90 stating that petitioners are not entitled for grant of any compensation.

3. The case of the petitioners is that their private patta land to an extent of 510 Sq. yards has been utilized for public purpose, namely, for the formation of road, however, no steps have been taken to acquire the land under the provisions of the Land Acquisition Act, 1894 and no compensation has been paid.

4. Respondents have filed counter affidavit stating that the said Jagathi had prepared an illegal layout in S.No.1 and voluntarily left a piece of land for the formation of 100 feet road. It is stated that the layout, which was formed by him, was not approved by Kakatiya Urban Development Authority and in spite of the same, he sold plots to third parties. Precisely, it is the case of the respondents that as much as the piece of land was left voluntarily by the said Jagathi, husband of Petitioner No.1, and father of Petitioner Nos.2 to 4, petitioners are not entitled for any compensation.

5. Learned counsel for the petitioners submits that in spite of

directions of this court, respondents have rejected to pay compensation to them without assigning valid reasons.

6. A perusal of the impugned proceedings does not indicate any reason recorded for rejecting compensation. However, some reasons are sought to be supplemented by the respondents in the counter affidavit. In the case of **Mohinder Singh Gill V. The Chief Election Commissioner, New Delhi**[1], the Hon'ble Supreme Court has held that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. A reading of the impugned order does not indicate as to why the claim of the petitioners was rejected. In spite of directions of this court in the earlier round of litigation, second respondent has issued the impugned proceedings mechanically. In that view of the matter, I deem it a fit case where the claim of the petitioners has to be considered afresh by the respondents.

7. Accordingly, proceedings dated 19-08-1997, issued by the second respondent, in Rc.No.C1/1697/90, are set aside. The matter is remitted to the respondents for fresh consideration. The second respondent is directed to consider the matter afresh and pass appropriate orders within two months from the date of receipt of this order.

8. The writ petition is allowed to the extent indicated above. No order as to costs.

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JUSTICE R. SUBHASH REDDY.

June 29, 2007
MRR

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[1] **AIR 1978 SC 581**